**INDIANA STATE DEPARTMENT OF HEALTH**
**Report on Small Employer Qualified Wellness Program Tax Credit**
**As Required by IC 5-14-6**
**January 2007 – December 2009**

## Background

In 2007, the Indiana General Assembly passed a bill enacting the small employer wellness tax credit (IC 6 – 3.1 – 31.2). This credit provides an incentive for employers with 2 –100 employees to implement a "certified wellness program" to benefit employees. The provision took effect in July, 2007, but was retroactive to the start of the 2007 tax year.

The Indiana State Department of Health (ISDH) was charged with implementing a rule to establish criteria and a process by which small employer wellness programs would be certified. An emergency rule was issued in October, 2007, to allow for employers to apply for the credit for the 2007 tax year. Subsequently, a final rule was issued and an advisory committee of wellness experts was established to assist in the final review and certification of wellness programs.

Through the established process, the employer submits an application with details of the wellness program for review by the advisory committee. Such details include assessments, education/intervention materials, rewards and measurement tools related to employee appropriate weight loss, smoking cessation and the pursuit of preventative health care services.

The advisory committee meets quarterly to review applications. If the criteria are met, an application is approved and a certificate issued. If the application fails to meet the criteria, it will be deferred. Deferred applicants may make adjustments to meet the criteria and reapply. Once certified, employers are eligible to receive a 50% tax credit for expenses related to the implementation of their wellness program. When filing a tax return and claiming the credit, the employer submits a copy of the ISDH-issued certification as proof of eligibility. Employers must reapply for certification on an annual basis.

## Number of employers taking advantage of tax credit for 2007-2009

**2007** -- 54 small employers were certified to claim the credit ($95,000 total claimed for 2007 tax year by 91 claimants*)
**2008** – 70 small employers were certified to claim the credit ($141,000 total claimed for 2008 tax year by 147 claimants*)
**2009 –** 73 small employers were certified to claim the credit (filing for 2009 tax year yet to occur).
**This is based upon de-identified, aggregrate tax information reported to ISDH by the Indiana Department of Revenue (DOR). There are more claimants than the number of certified employers because some file as S-corporations or partnerships.*

Of the small employers that received certification in 2007 – 2009, on average they employ 36 employees. The greatest number of employers utilizing the credit to date are located in central Indiana.

## Reports of abuse

There have been no reports of abuse of the credit by either DOR or ISDH. ISDH maintains records of all small employer applications, which include: employer contact information, status of applications, and number of employees. ISDH maintains close communication with DOR on specific questions about eligible expenses under the credit.

## Additional Information

**Vendor Status –** For the tax years of 2007-2008, ISDH certified not only small employers, but also wellness "vendors." Vendors functioned as a third party service provider by offering an already certified wellness program that could be adopted by a small employer seeking to utilize the tax credit. The goal was to give small employers, many of whom had little experience with worksite wellness, access to professionals who had developed a pre-approved wellness plan.

In 2008, the advisory board became concerned that a disproportionate number of applications were being received from vendors rather than the small employers the credit was designed to serve, and a decision was made to do away with the "certified vendor" status (through ISDH rule issued in October, 2008). Small employers can still contract with vendors providing worksite wellness services that meet the certification requirements. However, the employer is responsible for submitting the application for certification.

**Proposed Tax Cap --** When the tax credit legislation was enacted, the credit amount was stipulated as 50% of the costs incurred by the employer for providing a qualified wellness program for employees during the taxable year. There was no cap on the total amount of credit that could be claimed, which appears to be an oversight. The relevant code section states:

**Sec. 6. A taxpayer is entitled to a credit against the taxpayer's state tax liability for a taxable year in an amount equal to fifty percent (50%) of the costs incurred by the taxpayer during the taxable year for providing a qualified wellness program for the taxpayer's employees during the taxable year.**

During the 2009 session of the General Assembly an amendment was offered to place a cap on the total amount of credit that can be claimed in a taxable year by the employer. The amendment was not acted upon. Similar language is likely to be introduced in the 2010 session stating:

SECTION 1. IC 6-3.1-31.2-6 AS ADDED BY P.L.218-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. A taxpayer is entitled to a credit against the taxpayer's state tax liability for a taxable year in an amount equal to:

**(1)** fifty percent (50%) of the costs incurred by the taxpayer; **and**
**(2) not to exceed the greater of:**
**(A) fifty dollars ($50) per employee; or**
**(B) two thousand dollars ($2,000) per taxpayer per return;**
**in a taxable year beginning after December 31, 2010.**

**Evaluation Efforts --** Aside from recording the number of employers certified and determining the total amount of claims each tax year, little data has been collected regarding the wellness tax credit. ISDH is in the process of developing several evaluation methods that will help determine the effectiveness of the credit. The study will look at average implementation costs to employers, average number of employees participating in employer-offered wellness programs, measurable improvements in employee wellness and productivity, and employer recommended improvements to the tax credit.

As of this date, Indiana is the first and only state to have implemented such a tax credit. A number of states have drafted and attempted to pass similar legislation, and have looked to Indiana as a resource when developing their proposals. Improved data collection and evaluation will better inform potential modifications to the credit in future years and will provide valuable information for other states interested in following Indiana’s lead.